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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,315	11/26/2001	Toshio Takeshita	SONYJP 3.0-100 DIV	9616

530 7590 08/28/2003
LERNER, DAVID, LITTENBERG,
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600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

MERCADO, JULIAN A

ART UNIT PAPER NUMBER

1745

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/994,315

Applicant(s)

TAKESHITA ET AL.

Examiner

Julian A. Mercado

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-- The MAILING DATE of this communication appears on th cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/505,912.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference number 53, for one of the three connection terminals corresponding to 51 to 53. (see specification, pp. 17-18) It appears to the examiner that the error lies in Figure 6 instead showing two instances of reference number 51.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said battery loading device" in lines 15-16. There is insufficient antecedent basis for this limitation in the claim. It is suggested to change "said battery loading device" to --a battery loading device--.

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In claim 1 at lines 2-3, the “connection terminal connected to power supply means” is understood to correspond to terminals [51-53] of “battery loading device [6]” (see Fig. 6) connected to power supply means, i.e. “battery pack [5]” (see Fig. 5). In line 4, “a casing for housing said connection terminal” is understood to be drawn to the casing of the battery loading device and not that the battery pack. However, the additional limitations in lines 5-16 of the claim, e.g. “output terminal arranged in said casing”, “second surface of said casing continuing to a first surface of said casing”, etc. all refer back to features found in the battery pack and not the battery loading device. See, for example, Figure 5, which is understood to show “output terminal” [21-23] carried by both the “first surface” [20] and “second surface” [24] of the *battery pack*. [emphasis added] In short, the instant “casing” claimed in line 4 is understood to be drawn to the casing of the battery loading device, and since all the other claimed features are found in the *battery pack* while seemingly improperly referring back to the battery loading device casing, the claim is found indefinite.

As a suggestion, replacing “connection terminal” in line 4 with --power supply means-- would obviate the indefinite issues of independent claim 1.

Allowable Subject Matter

Claims 1-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office Action and the obviousness-type double patenting set forth below.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record and to the examiner’s knowledge do not teach or render obvious at least to the

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skilled artisan the instant invention regarding the instant engagement recesses having both perpendicular and parallel opening relative to the second surface

The closest prior art, that to Aoki et al. (U.S. Pat. 5,672,441), teaches the following:

Aoki et al. teaches a power supply device comprising connection terminals [13A, 13B] of a battery loading device [3] connected to power supply means such as battery device [1]. To the extent that the claims are understood by the examiner for the reasons discussed under 35 U.S.C. 112, second paragraph (discussion above), the battery device further comprises output terminals [12A, 12B] in casing [1A] carried by a first surface which is at right angles to a second surface; referring to the planar view of Figure 1, the first surface is perpendicular to the plane of the page in top-to-bottom direction while the second surface resides along the plane of the page. In Figure 1, recesses [14, 15, 16] are shown in the centerline of the second surface. Figure 1 further shows that terminals [12A, 12B] are within recesses disposed at corners of the first and second surfaces.

The instant invention, however, regarding the claimed engagement recesses having both a perpendicular and parallel openings to the second surface, i.e. a substantially L-shaped opening, is considered to be a non-obvious improvement over the prior art teachings of interlocking means, such as that demonstrated by Aoki et al.

Double Patenting

Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-5 of U.S. Patent No. 6,521,370 B1 to Takeshita et al. Although the conflicting claims are not identical, they are not patentably distinct from each

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other because Takeshita et al. similarly recites engagement recesses "including a portion perpendicular to said second surface and a portion parallel to said second surface". (see claim 1 of Takeshita et al.)

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Conclusion

The EP documents cited in lines AL-AN of IDS filed November 26, 2001 (Paper No. 2) have not been considered as copies thereof are absent from the file. Although Applicant notes that a copy of each reference was already made of record in parent Application No. 09/505,912,


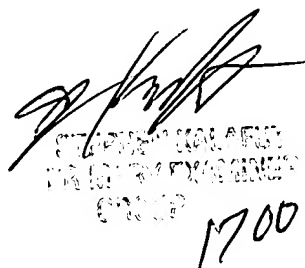
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the examiner notes that the parent Application is unavailable as it has since been allowed. The examiner kindly requests Applicant to submit a copy and accompanying translation of each of the EP documents in response to this Office Action in order to expedite the full consideration of these documents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian A. Mercado whose telephone number is (703) 305-0511. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (703) 308-2383. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to be 'J. Mercado', enclosed within a large, loopy circular scribble.A handwritten signature in black ink, possibly 'J. Mercado', positioned above a rectangular stamp. The stamp contains the text 'SUPERVISOR' and 'PATRICK J. RYAN' in a grid-like format. Below the stamp, the number '1700' is handwritten.